

CLD-365

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-2544

In re: IKIM ELIJAH BLACKETT,
Petitioner

On a Petition for Writ of Mandamus from the
District Court of the Virgin Islands
(Related to D.V.I. Crim. No. 3-10-cr-00028-001)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 1, 2013

Before: RENDELL, JORDAN and SHWARTZ, Circuit Judges

(Opinion filed: August 27, 2013)

OPINION

PER CURIAM

Ikim Elijah Blackett, proceeding pro se and in forma pauperis, petitions for a writ of mandamus compelling the District Court of the Virgin Islands to rule on his 28 U.S.C. § 2255 motion to vacate his sentence and his other pending motions.

Following a jury trial in July 2010, Blackett was convicted of bribing a juror in violation of 18 U.S.C. § 201(b)(1)(A). In February 2011, Blackett was sentenced to 36

months of imprisonment, to be followed by two years of supervised release.¹ Blackett appealed, and in May 2012, we affirmed the judgment and conviction. See United States v. Blackett, 481 F. App'x 741 (3d Cir. 2012). On November 13, 2012, Blackett filed in the District Court a § 2255 motion. The Government filed a response to Blackett's § 2255 motion on December 14, 2012. Blackett then filed several documents in the District Court in February, March, and April 2013. For example, on March 5, 2013, Blackett filed a motion for default judgment, which the Government responded to on March 13, 2013. Blackett's most recent filing, on April 12, 2013, sought a ruling on his pending motions. There has been no activity on the District Court's docket since then.

Mandamus is a drastic remedy available in extraordinary circumstances only. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005). A petitioner seeking the writ "must have no other adequate means to obtain the desired relief, and must show that the right to issuance is clear and indisputable." Madden v. Meyers, 102 F.3d 74, 79 (3d Cir. 1996) superseded in part on other grounds by 3d Cir. L.A.R. 24.1(c) (1997). Generally, a court's management of its docket is discretionary. In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 2005). Due to the discretionary nature of docket management, there is no "clear and indisputable" right to have the District Court handle a case in a certain manner. See Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 36 (1980) (quoting Bankers Life & Cas. Co. v. Holland, 346 U.S. 379, 384 (1953)) (internal quotation marks omitted). However, mandamus may be warranted when a District

¹ According to Blackett, his sentence of imprisonment will be completed on October 26, 2013.

Court's delay "is tantamount to a failure to exercise jurisdiction." Madden, 102 F.3d at 79.

In this case, Blackett's § 2255 motion has been ripe for adjudication since December 2012. We are confident that the District Court will rule on the § 2255 motion without undue delay. For the foregoing reasons, we will deny the petition for a writ of mandamus.